



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 20, 1996

Mr. George F. Christie  
Law Offices of Pope, Hardwicke, Christie,  
Harrell, Schell & Kelly, L.L.P.  
901 Fort Worth Club Building  
Fort Worth, Texas 76102-4995

OR96-0362

Dear Mr. Christie:

You have asked this office to determine if certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#24478.<sup>1</sup>

The Tarrant County Water Control and Improvement District Number One (the "district") received a request for "a list of all names and addresses of persons or entities holding or owning [district] Water Revenue Refund and Improvement Bonds - Series 1992." According to the information you have provided, the district has a paying agent that makes payments to the registered bondholder, CEDE & Co. ("CEDE"). The documents you have provided show that the registered bondholder, CEDE, may sell beneficial interest in the bonds, but that the bonds are not physically transferred from the registered bondholder to the beneficial owners. You indicate that the district does not have information about the beneficial owners, nor does the district possess the right to

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<sup>1</sup>We note that the open records laws were substantially amended by the Seventy-fourth Legislature. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, 1995 Tex. Sess. Law Serv. 5127 (Vernon) (codified as amendments to Gov't Code ch. 552). The amendments to chapter 552 "affecting the availability of information, the inspection of information, or the copying of information, including the costs for copying information, apply only to a request for information that is received by a governmental body on or after September 1, 1995." *Id.* § 26(a), 1995 Tex. Sess. Law Serv. at 5142 (Vernon). A request for information that is received by a governmental body prior to September 1, 1995, is governed by the law in effect at the time the request is made. *Id.* This request was made prior to September 1, 1995.

obtain this information from CEDE, which does possess the information. You state that the district has informed the requestor that the only information about bondholders that the district possesses is that the registered owner of the bonds is CEDE. However, the requestor also seeks a list of the beneficial owners.

The Open Records Act provides for access to public information. Gov't Code §§ 552.001, .221, .321, .353; Attorney General Opinion H-90 (1973). Public information is information collected, assembled or maintained by or for a governmental body under a law, ordinance or in connection with the transaction of official business. Gov't Code § 552.021. The district is not obligated to provide information if it does not possess it or have a right of access to it. *Economic Opportunities Dev. Corp. v. Bustamente*, 562 S.W.2d 266, 268 (Tex. Civ. App.--San Antonio 1978, writ dismissed w.o.j.) (to require governmental officer to produce information not possessed by the governmental body would be to require "an impossible act"); Open Records Decision No. 555 (1990) at 1 (Open Records Act does not require creation or assembly of new information). It therefore appears that the district answered the request when it informed the requestor that the registered holder of the bonds is CEDE. The district is not required to provide information about the beneficial owners if it does not possess that information or have a right of access to it.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/JET/ch

Ref.: ID# 24478

Enclosures: Submitted documents

cc: Mr. G. Maynard Green  
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(w/o enclosures)